

Application Number: 10/597,901
Amendment Dated: March 10, 2010
Office Action Dated: November 10, 2009

REMARKS

This paper is responsive to the Office Action dated November 10, 2009, for which a three (3) month period of response was given. A petition, a fee for a one (1) month extension of time accompanies this paper. Also enclosed herewith is a Request for Continued Examination (RCE) and the fee associated with same. No new claims fees are believed due in light of the amendments made herein. Furthermore, should any additional claims fees be due, the Commissioner is hereby authorized to charge such claims fees, as well as the necessary extension of time fee and RCE fee, to the Deposit Account No. 50-0959, Attorney Docket No. 089498.0500.

Claims 1 through 5 and 16 are pending in the present application upon entry of the above amended claims. Claim 1 has been amended. Claims 6 through 15 and 17 through 42 were previously cancelled. Applicants reserve the right to file, at any appropriate time, one or more divisional applications directed to any one, or more, of the cancelled claims.

Specifically, claim 1 has been amended to more clearly state that nature of the present invention. Support for the amendment to claim 1 can be found at page 7, lines 11 through 26. Accordingly, entry and consideration of the amended claim set and the remarks which follow is believed due and is respectfully requested.

I. The Oath/Declaration:

The Examiner has objected to the Oath/Declaration filed on April 23, 2007 for the reasons stated on page 2 of the Office Action mailed November 10, 2009. Given this, the Applicants' undersigned attorney would like to draw the Examiner's attention to the top of the second page of the Oath/Declaration filed April 23, 2007. The paragraph at the top of page 2 contains the necessary language mentioned by the Examiner on page 2 of the current Office Action. While the section symbols were inadvertently left out, this alone does not and cannot detract from the fact that page 2 of the Oath/Declaration filed April 23, 2007 meets the requirements set forth by the Examiner in the current Office Action.

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Accordingly, for at least the above reason, the objection to the Oath/Declaration filed April 23, 2007 is believed to be unfounded, and withdrawal thereof is believed due and is respectfully requested.

II. The 35 U.S.C. § 102(b) Rejection:

Claims 1, 3 through 5 and 16 have been rejected under 35 U.S.C. § 102(b) over Lau et al. (United States Patent No. 5,876,432). Lau et al. discloses a device which includes at least a tubular stent member which is formed from a helically wrapped undulating member and a coupling member which extends through undulations of adjacent turns of the helically wrapped undulating member and is movable along the undulations, the device is foldable into a lumen deployable configuration and may also include a coaxially positioned graft member.

On the other hand, the present invention is directed to a stent comprising: a stent member; a release layer, wherein the stent member is coated with the release layer; and an insoluble fibrous component, wherein the insoluble fibrous component is wrapped around the stent, wherein the insoluble fibrous component forms a reinforcing thrombus plug upon degradation of the release layer, and wherein the insoluble fibrous component is secured in place during implantation by the release layer, the release layer being designed to degrade only after implantation of the stent is complete (emphasis supplied). As can be seen from the disclosure contained in Lau et al., no such arrangement is disclosed, taught or suggested therein. As such, the devices of Lau et al. will not permit for a time lag between implantation and release of the sealing mesh component, if present. Additionally, the devices disclosed in Lau et al. can suffer movement of the mesh at an inopportune time (e.g., prior to implantation), thereby rendering such devices useless for their intended purposes.

On the other hand, the stents of the present invention permit the timely release of the insoluble fibrous component at an appropriate time after implantation. This is important because it permits a medical device formed in accordance with the claimed

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invention to be handled more rigorously without having to worry about the accidental, untimely release of the insoluble fibrous component.

Since Lau et al. does not disclose, teach or suggest each and every feature of the present invention, as recited in pending claim 1, Lau et al. cannot anticipate, or render obvious, claims 1, 3 through 5 and 16. For at least the above reason, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1, 3 through 5 and 16 is believed due and is respectfully requested.

III. The 35 U.S.C. § 103(a) Rejection:

Claim 2 has been rejected under 35 U.S.C. § 103(a) over Lau et al. (United States Patent No. 5,876,432). Initially, the teachings and shortcomings of Lau et al. are discussed above, and are omitted herein for the sake of brevity. Since claim 2 depends directly from claim 1, Lau et al. cannot render obvious claim 2 for at least the reason stated above. As such, the 35 U.S.C. § 103(a) rejection of claim 2 is believed to be unfounded, and withdrawal thereof is believed due and is respectfully requested.

IV. Conclusion:

Accordingly, reconsideration and withdrawal of the objection to the Oath/Declaration, the 35 U.S.C. § 102(b) rejection, and the 35 U.S.C. § 103(a) rejection of claims 1 through 5 and 16 are believed due and are respectfully requested.

For at least the foregoing reasons, at a minimum, claims 1 through 5 and 16 of the present application are believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

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Should the Examiner wish to discuss any of the foregoing in more detail, the undersigned attorney would welcome a telephone call.

Respectfully submitted,

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